

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 220 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

PATEL CHEMICAL WORKS

Versus

COMMISSIONER OF INCOME TAX

Appearance:

1. INCOME TAX REFERENCE No. 220 of 1989
MR JP SHAH for Petitioner No. 1
MR MANISH R BHATT for Respondent No. 1
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CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE A.M.KAPADIA

Date of decision: 14/07/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the assessee, the following question has been referred to this court for its opinion by the Income Tax Appellate Tribunal, Ahmedabad Bench 'C' under the provisions of sec. 256(2) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in finding that tax was avoided without ascertaining whether there is any revenue loss on account of non-inclusion of the income in question in the assessee's assessment and its inclusion in the assessment of the sister concerns?"

2. Learned advocate Shri J.P. Shah has appeared for the applicant-assessee whereas Sr. Standing Counsel Shri M.R. Bhatt has appeared for the respondent-revenue.

3. The learned advocates have submitted that for the same assessee, for the Assessment Year 1982-83, a similar question had arisen. The said question has already been decided by this court in I.T.R. No. 157 of 1989 in favour of the revenue and against the assessee.

4. Looking to the aforestated fact, we answer the question referred to this court in the affirmative, i.e., in favour of the revenue and against the assessee.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(hn) (A.M.Kapadia, J.)